

Before the  
Administrative Hearing Commission  
State of Missouri



SARAH KNIGHT,

Petitioner,

vs.

DIRECTOR OF REVENUE,

Respondent.

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No. 12-1324 RV

**DECISION**

We deny Sarah Knight's application for a refund of motor vehicle sales tax because she did not replace a vehicle due to a casualty loss within 180 days of payment from her insurance company.

**Procedure**

The Director of Revenue ("the Director") denied Knight's application for a motor vehicle use tax refund. On July 24, 2012, Knight filed a complaint challenging the Director's decision. We held a hearing on January 24, 2013. Knight appeared *pro se* via telephone. Senior Counsel Stephen P. Sullivan represented the Director. The matter became ready for our decision on April 8, 2013, when Knight's written argument was due.

**Findings of Fact**

1. Knight, a Missouri resident, owned a motor vehicle, a 1997 Audi, that was rendered a total loss on September 18, 2011 due to an accident.

2. On October 6, 2011, Knight's insurance company paid her \$5,775.00 as a result of the loss.

3. Due to an injury suffered in the accident, Knight was unable to purchase a motor vehicle within 180 days of payment by the insurance company.

4. On April 12, 2012, Knight purchased a replacement motor vehicle, a 2006 Lexus, from a dealer in Oklahoma.

5. April 12, 2012 was 189 days after October 6, 2011.

6. On April 17, 2012, Knight registered the Lexus and paid \$1,280.40 in state and local use taxes.

7. On May 21, 2012, Knight submitted an application for a refund of taxes paid on the Lexus.

8. On June 11, 2012, the Director issued a final decision denying the refund claim.

### Conclusions of Law

We have jurisdiction to hear this appeal.<sup>1</sup> Knight's refund claim is based on the casualty loss provision in § 144.027.1:

When a motor vehicle . . . for which all sales or use tax has been paid is **replaced due to . . . a casualty** loss in excess of the value of the unit, the director shall permit the amount of the insurance proceeds plus any owner's deductible obligation, as certified by the insurance company, to be a credit against the purchase price of another motor vehicle . . . which is purchased or is contracted to purchase **within one hundred eighty days of the date of payment by the insurance company as a replacement motor vehicle[.]**

(Emphasis added.) The definition of "due to" is "as a result of" or "because of."<sup>2</sup>

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<sup>1</sup>Section 621.050, RSMo 2000. Statutory references are to RSMo Supp. 2012 unless otherwise noted.

<sup>2</sup>MERRIAM-WEBSTER'S COLLEGIATE DICTIONARY 386 (11th ed. 2004).

Knight purchased the replacement Lexus after the Audi was wrecked and declared a total loss. Knight was unable to purchase the Lexus within the 180-day period of payment by her insurance company because she was injured in the September 2011 accident. Unfortunately, neither the Director nor this Commission has the power to make an exception to the law.<sup>3</sup> We must apply the law as written, and the statute does not allow a refund when the replacement vehicle is purchased later than 180 days after the date of payment by the insurance company.

### **Summary**

Knight is not entitled to a refund of motor vehicle use tax.

SO ORDERED on May 13, 2013.

*\s\ Sreenivasa Rao Dandamudi*  
SREENIVASA RAO DANDAMUDI  
Commissioner

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<sup>3</sup>*Lynn v. Director of Revenue*, 689 S.W.2d 45, 49 (Mo. banc 1985).